

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DAVID G. GOTTSCHALK,

Plaintiff,

V.

TEAMONE LOGISTICS, LLC AND
DWAYNE DAILEY,

Defendants,

CIVIL ACTION NO. 4:18-CV-3293
COLLECTIVE ACTION

**JOINT MOTION TO APPROVE SETTLEMENT AND DISMISS CASE
WITH PREJUDICE**

Plaintiff David G. Gottschalk, individually and on behalf of all other similarly situated, and Defendants TeamOne Logistics, LLC and Dwayne Dailey (hereinafter collectively referred to as the “Parties”) jointly move the Court to approve the settlement entered into by and between the Parties, which is submitted to the Court for *in camera* inspection, and to dismiss the case with prejudice pursuant to Federal Rule of Civil Procedure 41. In support of the motion, the Parties state as follows:

1. On September 14, 2018, Plaintiff Gottschalk filed a collective action Complaint in this matter against Defendants alleging violations of the Fair Labor Standards Act (“FLSA”).¹
 2. The following individuals subsequently filed notices of consent to opt-in to this lawsuit: Aaron Balvin, Christine Barrow, Sheldon Bell, Charles Berry, Wayne Blanford, Adolphus Brown, Robert Burke, Carl Burleson, Yvetta Burrell, Clifton Butler, Antonio Carrillo, Conlee Casey, Justin Chatham, Delas Clayton, Justin Conley, Kevin Cooks, Tony Cunningham,

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Roderick Dairy, George Dale, Leroy Dale, Leland Dinwiddie, Joel Duke, John Falzone, Charles Ford, Kevin Ford, Tyrone Foster, Gerold Gibson, Louis Gorzycki, Mitchell Guillory, Terry Guyton, Steve Harp, Adrian Harris, Johnnie Harris, Eric Hewitt, Leoneshia Jackson, Johnnie Jefferson, Ivy Johnson, Rodney Johnson, Tony Jones, Danny Kimball, Adrien Lawson, Decarlos Leveston, Richard Maxey, Chris McGinty, Julius McNeil, Tandea McQueen, Jacob Miller, Michael Mims, Victor Morgan, Dalvin Morris, Mike Morris, Ray Morris, Lon Mosley, LaCarlton Norfleet, Christophe Oldham, Joshua Owens, Manuel Parga, Kerry Pinkney, Enrique Prado, Tommy Preston, Raul Rodriguez, Mark Rosenfeld, James Scarmardo, Spence Shaffer, David Sitterly, Christopher Smith, Robert Smith, Aaron Springer, Harry Summers, Boderich Taylor, Roderic Taylor, Clarence Thomas, Mike Walden, Lawrence Walker, Walter Watson, Edward Weeks, Regnal Whiting, Ronald Winston, Lance Wise, and Demonica Young.

2. Following good-faith negotiations between counsel for Plaintiffs and counsel for Defendants, the Parties reached a mutually satisfactory settlement of all claims in the above-captioned lawsuit.

3. When an employee asserts a claim against his employer or former employer for allegedly unpaid wages under the FLSA, any settlement of that claim typically requires a court to review the settlement for fairness.²

4. The Confidential Collective Action Settlement Agreement and Release of Claims (the “Agreement”) entered into by and between Plaintiffs and Defendant has been submitted to the Court for *in camera* inspection and approval.

² *Lynn's Food Stores, Inc. v. U.S. By & Through U.S. Dep't of Labor, Employment Standards Admin., Wage & Hour Div.*, 679 F.2d 1350 (11th Cir. 1982).

5. The Parties respectfully request that the Court approve the Agreement because it is a fair and reasonable resolution between Plaintiffs and Defendant of *bona fide* disputes over wages. For example, there remain *bona fide* disputes as to the exempt status of Plaintiffs, as to the number of hours Plaintiffs worked, whether Defendants' actions were willful, and whether Defendants acted in good faith.

7. If this Court approves the Agreement, the Parties further jointly request the dismissal of Plaintiffs' claims with prejudice, with each party to bear his/her/its own costs and attorneys' fees.

WHEREFORE, for the foregoing reasons, Plaintiffs and Defendants respectfully request that this Court enter an Order approving the Agreement as a fair and reasonable resolution of *bona fide* disputes under the FLSA between Plaintiffs and Defendants, and dismiss with prejudice the claims in this lawsuit in their entirety with each party to bear their/its own costs and attorneys' fees.

Respectfully submitted,

/s/ Charles L. Scalise

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/s/ Gregory Guidry

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CERTIFICATE OF CONFERENCE

Counsel for Defendants conferred with counsel for Plaintiff, Charles L. Scalise, on January 31, 2020, via email, and Plaintiff does not oppose the relief requested by this Motion.

/s/Gregory Guidry
Gregory Guidry

CERTIFICATE OF SERVICE

I hereby certify that on this 31 of January, 2020, the foregoing was served on Plaintiff in accordance with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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/s/Gregory Guidry
Gregory Guidry